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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,216	10/30/2003	Kevin D. Beauford	LUC-447/Beauford 1	9777

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EXAMINER

DAGOSTA, STEPHEN M

ART UNIT	PAPER NUMBER
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2683

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/697,216	<b>Applicant(s)</b> BEAUFORD, KEVIN D.	
	<b>Examiner</b> Stephen M. D'Agosta	<b>Art Unit</b> 2683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6,10,13,14 and 20 is/are rejected.
- 7) ☒ Claim(s) 3,4,7-9,11,12 and 15-19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-2, 5-6, 13-14 and 20** rejected under 35 U.S.C. 103(a) as being unpatentable over Birze US 5,926,537 and further in view of Applicant's Specification, #10-697216.

As per **claims 1-2, 5-6, 13-14 and 20**, Birze teaches an apparatus, comprising:  
a call control component that sets a call category for a call to indicate that the call terminates at an announcement server component prior to connection with a called communication device, and generic "call category", eg. knowing that the caller should receive a special ringtone, see (C4, L43 to C5, L19),

**but is silent on**

wherein upon receipt of an answer message from the announcement server component, the call control component drops the answer message based on the call category.

Applicant's specification, #10-697216, discloses (pages 1-2):

".....When involved on the call to provide an announcement, some announcement server components send answer messages to a call control component that supports the call and controls billing for the call.

Upon receipt of answer messages, the call control component initiates billing for the call. For example, based on International Telecommunication Union (ITU-T") Q.764 and American

National Standards Institute (EWSI") T1.1 13 standards, billing shall begin upon reception of an answer message, for example, a signaling system 7 (SS7") Answer message.

However, billing should not occur during an announcement or ringback tone phase of the call. As one shortcoming, if the announcement server component sends an answer message to the call control component, then the call control component may initiate billing for the call based on the answer message from the announcement server component. As another shortcoming, initiation of billing based on the answer message from the announcement server component causes billing during the announcement or ringback tone phase of the call.

One communication system that serves to prevent billing during the announcement or ringback tone phase employs a recent change mechanism to drop the answer message from the announcement server component. For example, the communication system activates the recent change mechanism for specific carrier trunks connected to the announcement server component. ne recent change mechanisms in one example are individually set by customer support on the carrier trunks connected to the announcement server component.

The examiner notes that this disclosure is prior art, since it is located in the Background section of the specification. Therefore, the teaching shows that it is known in the art to drop the answer message from the announcement server component. Birze teaches a "call category" since he equates an incoming call to a certain person and sends the appropriate ringback tone.

It would have been obvious to one skilled in the art at the time of the invention to modify Birze, such that wherein upon receipt of an answer message from the announcement server component, the call control component drops the answer message based on the call category, to provide means for starting the billing process once a calling party is connected to the called party (and not during call setup).

As per **claim 2**, Birze teaches claim 1, wherein the call terminates at the announcement server component and the called communication device, wherein the call control component accepts an answer message from the called communication device (C3, L35, to C4, L41 teaches the call connecting).

As per **claims 5 and 14**, Birze teaches wherein the call control component receives the call and queries a home location register for an indication that the announcement server component; call will employ the wherein the call control component sets the call category for the call based on the indication from the home location register (eg. claim 14: wherein the step of setting the call category for the call to indicate that the call terminates at the announcement server component prior to connection with the called communication device comprises the steps of: querying a home location register for an indication of whether the call will employ the announcement Server Component; determining from the indication that the call terminates at an announcement server component prior to connection with a called communication device; and setting the call category to a value that indicates the call terminates at the announcement Server Component) – see C4, L43 to C5, L19, which teaches determining, in the MSC/HLR, that the caller requires a special ringtone.

As per **claim 6**, Birze teaches claim 1, wherein a calling communication device initiates the call to the called communication device, wherein the announcement server component comprises a customized ringback tone component;

wherein the call control component determines that the call meets one or more customized ringback tone criteria set by a user of the called communication device and sets the call category to indicate that the call terminates at the customized ringback tone Component (C4, L43 to C5, L19);

As per **claim 10**, Birze teaches wherein the call control component comprises a control subcomponent and a switching subcomponent, wherein the call category comprises a calling party category; wherein the control subcomponent determines that the call terminates at the announcement server component prior to connection with the called communication device; wherein the control subcomponent sends a call setup message to the switching subcomponent, wherein the control subcomponent sets the calling party category in the call setup message to a value that indicates that the call terminates at the announcement server component prior to connection with the called communication device (C4, L43 to C5, L19).

***Allowable Subject Matter***

**Claims 3-4, 7-9, 11-12 and 15-19** objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art does not teach:

**claim 3:** wherein the call control component drops the answer message from the announcement server component to prevent an initiation of billing for the call based on the answer message from the announcement server component;

wherein the call control component initiates the billing for the call upon receipt of the answer message from the called communication device.

**claim 4:** wherein the call control component receives the call and sends a signaling message associated with the call to the announcement server component to involve the announcement server component on the call; wherein the announcement server component plays an announcement for a calling communication device of the call and sends the answer message to the call control component, wherein the call control component determines to not process the answer message from the announcement server component based on the call category.

**claim 7:** wherein the customized ringback tone component sends the answer message to the call control component and plays a preselected ringback tone to the calling communication device prior to answer by the called communication device; wherein the call control component determines to not process the answer message to prevent billing for the call while the customized ringback tone component plays the preselected ringback tone to the calling communication device.

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**claim 8:** wherein the call control component determines to not update a billing record associated with the call based on the answer message from the announcement Server Component.

**claim 9:** wherein the billing record comprises an automatic messaging account billing record associated with one or more of the calling communication device and the called communication device. (depends from claim 8)

**claim 11:** wherein the switching subcomponent employs the calling party category to determine whether to process incoming answer messages from the announcement Server Component, wherein the switching subcomponent checks the calling party category and if the calling party category is set to the value that indicates that the call terminates at the announcement server component, then the switching subcomponent determines to not alert the control subcomponent of the answer message to prevent the control subcomponent from updating a billing record associated with the call based on the answer message from the announcement Server Component.

**Claim 12:** wherein a carrier trunk supports the answer message between the announcement server component and the call control component, wherein upon receipt of the answer message from the announcement server component, the call control component employs the call category to determine to not initiate billing for the call based on the answer message.

**claim 15:** wherein the call category comprises a calling party category, wherein the step of setting the call category for the call to indicate that the call terminates at the announcement server component prior to connection with the called communication device comprises the steps of: determining that the call terminates at the announcement server component prior to connection with the called communication device, and sending a call setup message with the calling party category in the call setup message set to a value that alerts a switch component for the call to drop the answer message from the announcement server Component.

**claim 16:** wherein the step of preventing the initiation of billing for the call upon receipt of the answer message from the announcement server component based on the call category comprises the step of: determining to not update a billing record associated with the call for the answer message from the announcement server component based on the calling party category being set to the value.

**claim 17:** wherein the step of preventing the initiation of billing for the call upon receipt of the answer message from the announcement server component based on the call category comprises the steps of: checking the call category upon receipt of the answer message from the announcement Server Component; and dropping the answer message if the call category is set to a value that indicates the call terminates at the announcement server component.

**claim 18:** wherein the step of preventing the initiation of billing for the call upon receipt of the answer message from the announcement server component based on the call category comprises the steps of: dropping the answer message from the announcement server component to prevent an initiation of billing for the call based on the answer message from the announcement server component; and accepting an answer message from the called communication device to initiate the billing for the call upon receipt of the answer message from the called communication device.

**claim 19:** wherein a calling communication device initiates the call to the called communication device, wherein comprises a customized ringback tone component; the announcement server component category for the call to indicate that the call terminates at the announcement server component prior to connection with the called communication device comprises the steps of: wherein the step of setting the call detennining that the call meets one or more customized ringback tone criteria set by a user of the called communication device; and setting the call category to indicate that the call terminates at the customized ringback tone component;



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wherein the customized ringback tone component sends the answer message to the call control component and plays a preselected ringback tone to the calling communication device prior to answer by the called communication device; wherein the step of preventing the initiation of billing for the call upon receipt of the answer message from the announcement comprises the step of: server component based on the call category determining to not process the answer message to prevent billing for the call while the customized ringback tone component plays the preselected ringback tone to the calling communication device.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. Koser et al. US 2004/0032946
2. Burd et al. US 5,432,845
3. Koch US 2004/0109558

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 571-272-7862. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stephen D'Agosta  
Primary Examiner  
12-14-2005

